

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

WARING PARK,

Plaintiff,

vs.

GINNY LEWIS,

Defendant.

3:08-CV-0423-LRH (VPC)

**REPORT AND RECOMMENDATION
OF U.S. MAGISTRATE JUDGE**

This report and recommendation is made to the Honorable Larry R. Hicks, United States District Judge. The action was referred to the undersigned Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and the Local Rules of Practice, LR IB 1-4.

On August 4, 2008, plaintiff submitted a document to the clerk which is purportedly an emergency request for an injunction and/or a complaint (#1). Plaintiff failed to pay the required \$350 filing fee or submit an application to proceed *in forma pauperis*. On October 1, 2008, the court ordered plaintiff to either pay the filing fee in the amount of \$350 or complete an application to proceed *in forma pauperis* on or before October 24, 2008 (#3). Plaintiff requested and received an extension of time to December 1, 2008 to comply with the court's order (#4 & #5).

To date, plaintiff has failed and refused to follow the court's order. Instead, plaintiff submitted a notice to the court stating that he believed the *in forma pauperis* application to be a constitutional violation (#6). Plaintiff has failed to provide the court with any information on which to base its decision concerning whether plaintiff may proceed *in forma pauperis*. Therefore, the court is compelled to recommend that plaintiff be denied *in forma pauperis* status and this action be dismissed without prejudice.

1 The parties should be aware of the following:

2 1. They may file, pursuant to 28 U.S.C. § 636(b)(1)(C) and Rule IB 3-2 of the Local Rules
3 of Practice, specific written objections to this Report and Recommendation within ten (10) days of
4 receipt. These objections should be titled "Objections to Magistrate Judge's Report and
5 Recommendation" and should be accompanied by points and authorities for consideration by the
6 District Court.

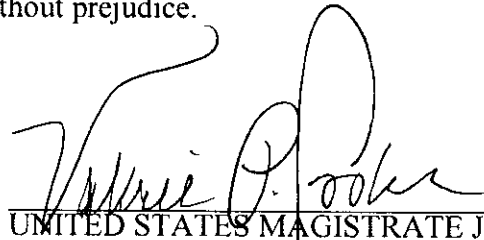
7 2. This Report and Recommendation is not an appealable order, and any notice of appeal
8 pursuant to Rule 4(a)(1), Fed. R. App. P., should not be filed until entry of the District Court's
9 judgment.

10 **RECOMMENDATION**

11 For the reasons stated above, the undersigned recommends that the District Court enter an order
12 as follows:

- 13 1. **DENYING** *in forma pauperis* status to plaintiff; and
14 2. **DISMISSING** this action without prejudice.

15 DATED: December 9, 2008.

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18 UNITED STATES MAGISTRATE JUDGE
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